

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DENARD BROWN, BENEDICTA CHARLES,
MICHAEL PERCHIANO, T [REDACTED] E [REDACTED], an infant
under the age of 18 years, by his aunt and legal guardian,
BENEDICTA CHARLES, S [REDACTED] B [REDACTED], an
infant under the age of 18 years, by her mother and natural
guardian, BENEDICTA CHARLES

**STIPULATION OF
SETTLEMENT AND ORDER
OF DISMISSAL**

10 CV 634 (RRM) (RER)

Plaintiffs,

-against-

THE CITY OF NEW YORK, P.O. RODRIGUEZ, P.O.
VINCENT LOPICCOLO [SHIELD #522], P.O.
MICHAEL ZAK [SHIELD #30490], P.O. JON FAHIM
[SHIELD #31415], JOHN DOE and JANE DOE,

Defendants.

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ MAR 03 2011 ★

BROOKLYN OFFICE

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WHEREAS, plaintiffs commenced this action by filing a complaint on or about February 12, 2010, and an amended complaint on or about July 23, 2010, alleging that the defendants violated plaintiffs' federal civil and state common law rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiffs' allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed against defendants, with prejudice, and without costs, expenses, or attorneys' fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiffs as follows: Michael Perchiano, the sum of Fifteen Thousand Dollars (\$15,000), in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees; [REDACTED], the sum of Fifteen Thousand Dollars (\$15,000), in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees; Denard Brown, the sum of One Thousand Dollars (\$1,000), in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees; [REDACTED], the sum of One Thousand Dollars (\$1,000), in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees; and Benedicta Charles, the sum of Three Thousand Dollars (\$3,000), in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees. In consideration for the payment of these sums, plaintiffs agree to dismissal of all the claims against the defendants City of New York, the individual identified as "P.O. Rodriguez," Vincent Lopiccolo, Michael Zak and Jon Fahim and to release the defendants and any present or former employees and agents of the City of New York or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses, and attorneys' fees.

3. Plaintiffs shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, General Releases based on the terms of paragraph 2 above and Affidavits of Status of Liens. If Medicare has provided payment and/or benefits for any injury or condition that is the subject of this lawsuit, prior to tendering the requisite documents to effect this settlement, plaintiffs shall have notified Medicare and shall submit with the settlement documents a Medicare final demand letter for conditional payments.

A Medicare Set-Aside Trust may also be required if future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. §1395y(b) and 42 C.F.R. §§411.22 through 411.26.

4. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

6. Plaintiffs agree to hold harmless the City of New York and all defendants regarding any liens or past and/or future Medicare payments, presently known or unknown, in connection with this matter. If conditional and/or future anticipated Medicare payments have not been satisfied, defendants reserve the right to issue a multiparty settlement check, naming Medicare as a payee or to issue a check to Medicare directly based upon Medicare's final demand letter.

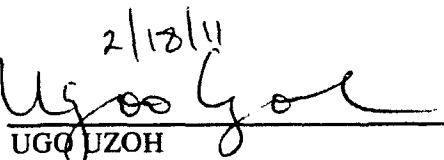
7. Settlement of this action with respect to Shaquisha Brown is conditioned on compliance with provisions set forth in Rule 83.2(a) of the Local Civil Rules of this Court ("Settlement of Actions by or on Behalf of Infants or Incompetents, Wrongful Death Actions, and Conscious Pain and Suffering Actions") and Rule 1207 et seq. of the Civil Practice Laws and Rules for the State of New York, to the extent applicable, and the infant compromise order adopted by the Court on January 26, 2011.

8. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written

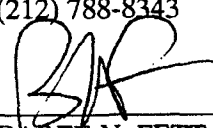
agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
3-2-, 2011

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By: 2/13/11

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By: 
BAREE N. FETT
Assistant Corporation Counsel

SO ORDERED:

s/Roslynn R. Mauskopf

HON. ROSLYNN R. MAUSKOPF
UNITED STATES DISTRICT JUDGE

Dated: New York, New York
March 2, 2011